

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

HER-VILL GROUP CORP.,

Plaintiff,

v.

NETSER COMPUTER INT'L, et al.,

Defendants.

Civil No. 06-1648 (JAF)

OPINION AND ORDER

Plaintiff Her-Vill Group Corporation brings the present diversity action against Defendants Netser Computer International, Inc. ("Netser"), Francisco Herrera ("Herrera"), and several unnamed parties requesting compensatory damages for breach of contract. Docket Document No. 1.

Defendants Netser and Herrera move to dismiss Plaintiff's complaint for lack of personal jurisdiction, or alternatively, improper venue pursuant to Federal Rules of Civil Procedure 12(b)(2) and (b)(3). Docket Document No. 6. Defendants also request, without submitting to the court's jurisdiction, that the court order Plaintiff to submit its claim to arbitration, as required under the parties' contract. Docket Document No. 11. For the reasons stated below, the court grants Defendants' motion to dismiss for lack of personal jurisdiction, but denies their motion for an order compelling arbitration.

I.

Factual and Procedural Synopsis

We derive the following factual summary from the parties' pleadings, briefs, and affidavits. Docket Document Nos. 1, 6, 9. We note that the record before the court is sparse.

Plaintiff Her-Vill is a corporation that has its primary place of business in San Juan, Puerto Rico. It provides computer maintenance service throughout the Caribbean using various subcontractors, including Defendant Netser. Netser is a Florida corporation whose principal offices are in Coral Springs, Florida.

Defendant Netser entered into a Maintenance Service Supplier Agreement ("the contract") with Plaintiff Her-Vill on July 1, 2004. After Her-Vill sent a draft of the contract to Netser and certain changes were made, Netser signed the contract in Florida, and then sent it to Her-Vill in Puerto Rico, where Her-Vill signed it. The contract contains a choice of law clause stating that it is governed by the laws of Puerto Rico. The contract further establishes that disputes arising thereunder will be arbitrated by the parties.

The parties' business arrangement was set up in the following manner: Plaintiff Her-Vill received computer maintenance service requests from its customers, and assigned these jobs to various subcontractors, including Defendant Netser. After the completion of each job, Defendant Netser sent all forms to Plaintiff for inspection and, each month, Netser sent all of its service invoices to Plaintiff

Civil No. 06-1648 (JAF)

-3-

1 for review, approval, and payment. Occasionally, Netser sent
2 representatives to Puerto Rico for performance evaluations.

3 Netser is based in Florida and does not have any employees,
4 offices, property, books, records or bank accounts in Puerto Rico.
5 Netser also does not provide any services in Puerto Rico. As stated
6 in the contract, Netser's service area is limited to "Trinidad &
7 Tobago, Barbados, St. Vincent, Dominica, Anguilla, Jamaica, Bahamas
8 and other English speaking Caribbean islands." Docket Document
9 No. 6, Exh. 1. Defendant Herrera, Netser's General Manager, is a
10 resident of Florida and does not own or lease any property, or have
11 a bank account or office in Puerto Rico.¹ He also does not provide
12 any services in Puerto Rico.

13 Defendants Netser and Herrera moved to dismiss Plaintiff's
14 complaint on August 18, 2006, alleging (1) lack of personal
15 jurisdiction; (2) failure to submit the claim to arbitration in
16 violation of the parties' contract; and, in the alternative,
17 (3) improper venue. Docket Document No. 6. Plaintiff opposed on
18 September 25, 2006, conceding that the dispute must be submitted to
19 arbitration in accordance with the contract, but contesting

¹ Defendant Herrera argues that Plaintiff wrongfully sued him in his personal capacity because the lawsuit is for breach of contract and, while he was a signatory to the contract, he signed it in his official capacity as the General Manager of Nestser. Docket Document No. 6. We need not decide this matter because Herrera has not filed a Rule 12(b)(6) motion for failure to state a claim against him and, moreover, we dismiss the complaint in its entirety for lack of personal jurisdiction.

Civil No. 06-1648 (JAF)

-4-

1 Defendants' assertion that the court lacks personal jurisdiction.
2 Docket Document No. 9. On September 27, 2006, Defendants replied to
3 Plaintiff's argument regarding personal jurisdiction. Docket
4 Document Nos. 10, 13. That same day, Defendants also filed a second
5 motion, without submitting to the jurisdiction of this court,
6 requesting an order compelling arbitration. Docket Document No. 11.

7 **II.**

8 **Motion to Dismiss Standard Under Rule 12(b) (2)**

9 Under Rule 12(b) (2), a defendant may move to dismiss an action
10 against him for lack of personal jurisdiction. See FED. R. CIV.
11 P. 12(b) (2). Since federal courts are courts of limited jurisdiction,
12 the party asserting jurisdiction has the burden of demonstrating its
13 existence. See United States v. Swiss Am. Bank, Ltd., 274 F.3d 610,
14 618 (1st Cir. 2001). To show that each defendant is amenable to
15 personal jurisdiction in the forum state, a plaintiff must make a
16 prima-facie showing "as to every fact required to satisfy both the
17 forum's long-arm statute and the Due Process Clause of the
18 Constitution." Harlow v. Children's Hosp., 432 F.3d 50, 57 n.3 (1st
19 Cir. 2005) (internal quotations omitted). This showing must be made
20 using affirmative proof of specific facts. Swiss Am. Bank, Ltd., 274
21 F.3d at 619; Boit v. Gar-Tec Prods., Inc., 967 F.2d 671, 675 (1st
22 Cir. 1992) (stating that mere references to unsupported allegations in
23 the complaint are insufficient to establish personal jurisdiction).
24 The district court will accept the plaintiff's asserted facts as true

Civil No. 06-1648 (JAF)

-5-

so long as they are properly supported by evidence, and make its ruling not as a fact finder, but, rather, as a matter of law. Swiss Am. Bank, Ltd., 274 F.3d at 619.

III.

Analysis

A. Personal Jurisdiction

The Due Process Clause of the Fourteenth Amendment protects an individual from being subject to binding judgments of a forum with which he has had "no meaningful 'contacts, ties or relations.'" Burger King Corp. v. Rudzewicz, 471 U.S. 462, 471-72 (1985) (quoting Int'l Shoe Co. v. Washington, 326 U.S. 310, 319 (1945)); see also Daynard v. Ness, Motley, Loadholt, Richardson & Poole, P.A., 290 F.3d 42, 52 (1st Cir. 2002). We exercise personal jurisdiction over a defendant "'by virtue of either general or specific jurisdiction.'"² Northern Laminate Sales, Inc. v. Davis, 403 F.3d 14, 24 (1st Cir. 2005) (quoting Mass. Sch. of Law at Andover, Inc. v. Am. Bar Ass'n,

² Typically, we first look at Puerto Rico's long-arm statute to determine whether we may exercise personal jurisdiction over a defendant. See Ticketmaster-New York v. Alioto, 26 F.3d 201, 204 (1st Cir. 1994); see also 32 L.P.R.A. App. III R. 4.7 (2004) (authorizing jurisdiction over a person not domiciled in Puerto Rico "if the action or claim arises because said person . . . [t]ransacted business in Puerto Rico personally or through his agent."). However, in this case, we need not decide whether the long-arm statute applies because, even if it did, the exercise of personal jurisdiction over Defendants would be unconstitutional. See U.S.S. Yachts, Inc. v. Ocean Yachts, Inc., 894 F.2d 9, 11 (1st Cir. 1990) (finding it unnecessary to analyze the long-arm statute because the exercise of personal jurisdiction "would offend due process").

Civil No. 06-1648 (JAF)

-6-

1 142 F.3d 26, 34 (1st Cir. 1998)). "General jurisdiction exists when
2 the litigation is not directly founded on the defendant's forum-based
3 contacts, but the defendant has nevertheless engaged in continuous
4 and systematic activity, unrelated to the suit, in the forum state."
5 Swiss Am. Bank, Ltd., 274 F.3d at 618 (internal quotations omitted).
6 "Specific jurisdiction exists when there is a demonstrable nexus
7 between a plaintiff's claims and a defendant's forum-based
8 activities." Id. (internal quotations omitted).

9 **1. General Jurisdiction**

10 To establish general jurisdiction, a plaintiff must prove that
11 (1) the defendant engaged in continuous and systematic business
12 activities in the forum state, and (2) the exercise of jurisdiction
13 would be reasonable. Swiss Am. Bank, Ltd., 274 F.3d at 619. If the
14 first criterion is not met, the inquiry ends there. Id.

15 General jurisdiction cannot be established unless the
16 defendant's contacts are "so substantial and of such a nature as to
17 justify suit against it on causes of action arising from dealings
18 entirely distinct from those activities." Int'l Shoe Co. v.
19 Washington, 326 U.S. 310, 318 (1945); see also Noonan v. Winston Co.,
20 135 F.3d 85, 93 (1st Cir. 1998) (stating that the constitutional
21 requirements for general jurisdiction are much more demanding than
22 those for specific jurisdiction). In determining what constitutes
23 continuous and systematic contacts, we look to "the types of contacts

Civil No. 06-1648 (JAF)

-7-

1 deemed insufficiently continuous and systematic in other cases.”
2 Swiss Am. Bank, Ltd., 274 F.3d at 621.

3 **a. Defendant Netser**

4 Defendant Netser contends that general jurisdiction does not
5 exist because Netser is organized under Florida laws, its principal
6 offices are in Coral Springs, Florida, and it does not have any
7 employees, offices, real property, company books or records, bank
8 accounts, officers, or directors in Puerto Rico. Docket Document No.
9 6. Netser also does not pay taxes in Puerto Rico. Id.

10 Plaintiff does not contest these facts. However, it asserts
11 that general jurisdiction is proper because: (1) Netser “systemically
12 and continuously carried out business” in Puerto Rico by entering
13 into an agreement whereby it regularly received referrals from
14 Plaintiff’s Puerto Rico office for work in various Caribbean islands,
15 (2) Netser received payments from Plaintiff’s Puerto Rico office, and
16 (3) Netser agreed to a choice of law provision favoring Puerto Rico
17 law. Docket Document No. 9.³

18 We disagree with Plaintiff. Defendant Netser’s contacts with
19 Puerto Rico are far too modest to support general jurisdiction as
20 they are less continuous and systematic than those contacts found to
21 be insufficient in other cases. For example, in Noonan v. Winston

³ Plaintiff provides no legal support for its allegations. Docket Document No. 9. If any briefs are submitted to this court in the future, they must contain legal support for all arguments.

Civil No. 06-1648 (JAF)

-8-

1 Co., the First Circuit affirmed a Massachusetts district court's
2 finding that it could not exercise jurisdiction over a British
3 company that sent an employee to Massachusetts numerous times,
4 directly solicited business from a Massachusetts company, and
5 received \$585,000 in orders from Massachusetts. 135 F.3d 85, 93-94
6 (1st Cir. 1998). Similarly, in the present case, there is evidence
7 that Netser sent representatives to Puerto Rico for performance
8 evaluations, and received payments and work assignments from
9 Plaintiff's Puerto Rico office. However, there is no evidence that
10 Defendant Netser took any affirmative steps, as the defendant in
11 Noonan had done, to actively solicit business from Plaintiff or any
12 other company in Puerto Rico. Because Defendant Netser's contacts
13 are less continuous and systematic than those found to be
14 insufficient in Noonan, we find that we may not exercise general
15 jurisdiction over Netser.

16 In further support of our conclusion regarding general
17 jurisdiction, we look to United States Schools of Golf, Inc. v.
18 Biltmore Golf, Inc., an analogous case from the Southern District of
19 Indiana that held that general jurisdiction was lacking. No. 05-
20 0313, 2005 U.S. Dist. LEXIS 28235, at *10-12 (S.D. Ind. Nov. 10,
21 2005). In Biltmore Golf, Inc., the plaintiff, an Indiana
22 corporation, referred golfers to the defendant's golf school in
23 Florida in exchange for a fee. Id. at *4. The plaintiff alleged
24 that the defendant's contacts were sufficient to establish general

Civil No. 06-1648 (JAF)

-9-

1 jurisdiction because (1) it entered a multi-year business
2 relationship with an Indiana corporation, (2) it communicated with
3 the corporation in Indiana, (3) it provided services to Indiana
4 residents, albeit in states other than Indiana, and (4) its website
5 was available to Indiana residents and featured a quote from a
6 customer from Indiana. Id. at *10. The court disagreed with the
7 plaintiff because the defendant (a) did not provide golf instruction
8 in Indiana, (b) did not maintain offices or own property in Indiana,
9 and, (c) although the defendant's website was available to Indiana
10 residents, it did not otherwise advertise in Indiana. Id. at *11-12.

11 Similarly, here, Defendant Netser's receipt of referrals and
12 payments from Plaintiff's office in Puerto Rico is insufficient to
13 establish general jurisdiction because Netser did not have any
14 offices, own any property, or provide any services in Puerto Rico.
15 Docket Document No. 6.

16 Plaintiff further asserts that the choice of law provision in
17 the contract, stating the Puerto Rico law governs the contract,
18 demonstrates that Defendant Netser was engaging in continuous and
19 systematic business activities in Puerto Rico such that we may
20 exercise general jurisdiction over it. Docket Document Nos. 9-1, 9-
21 2. Plaintiff is mistaken. A choice of law provision, even when
22 considered together with Defendant Netser's receipt of referrals and
23 payments from Plaintiff's Puerto Rico office, is insufficient to meet
24 the constitutional requirements for general jurisdiction. See, e.g.,

Civil No. 06-1648 (JAF)

-10-

1 Gates Learjet Corp. v. Jensen, 743 F.2d 1325, 1330-31 (9th Cir. 1984)
2 (finding that no general jurisdiction existed over defendants in
3 Arizona, although they solicited a contract there containing a choice
4 of law and forum provision favoring Arizona, made several visits and
5 purchases in Arizona, and engaged in extensive communication with
6 individuals there).

7 **b. Defendant Herrera**

8 Defendant Herrera's contacts also fall short of the requirements
9 for general jurisdiction. Aside from evidence regarding Defendant
10 Netser's contacts with Puerto Rico - which Plaintiff seemingly
11 imputes to Herrera - Plaintiff has not presented the court with any
12 evidence regarding Herrera's in-forum contacts. Docket Document Nos.
13 1, 9. Based on Defendant Herrera's uncontested affidavit, he is a
14 resident of Florida and does not live, render any services, have a
15 bank account, or own or lease any property in Puerto Rico. Docket
16 Document No. 6. Thus, Plaintiff fails to prove that we may exercise
17 general jurisdiction over Defendant Herrera. See Biltmore Golf,
18 Inc., 2005 U.S. Dist. LEXIS 28235, at *12 (finding that general
19 jurisdiction did not exist for the majority owner of the defendant
20 corporation because he did not own property in the forum state, he
21 had visited the forum state only a few times in the past ten years,
22 and, although he worked there in the past, he never lived there).

23 **2. Specific Jurisdiction**

Civil No. 06-1648 (JAF)

-11-

1 In the absence of general jurisdiction, we must determine
2 whether specific jurisdiction exists. Daynard v. Ness, Motley,
3 Loadholt, Richardson & Poole, P.A., 290 F.3d 42, 51 (1st Cir. 2002).
4 We may exercise specific jurisdiction when there is a "demonstrable
5 nexus between a plaintiff's claims and a defendant's forum-based
6 activities, such as when the litigation itself is founded directly on
7 those activities." Mass. Sch. of Law at Andover, Inc. v. Am. Bar
8 Ass'n, 142 F.3d 26, 34 (1st Cir. 1998). Here, we consider whether
9 Defendants conducted activities in Puerto Rico such that they might
10 "reasonably anticipate being haled into court" here. World-Wide
11 Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980). This analysis
12 must be done separately for each defendant. Keeton v. Hustler
13 Magazine, Inc., 465 U.S. 770, 781 n.13 (1984) ("Each defendant's
14 contacts with the forum State must be assessed individually.").

15 We apply the First Circuit's three-part test to determine
16 whether the exercise of specific jurisdiction is in accordance with
17 due process requirements: (1) "the claim underlying the litigation
18 must directly arise out of, or relate to, the defendant's forum-based
19 activities"; (2) "the defendant's in-state contacts must represent a
20 purposeful availment of the privilege of conducting activities in the
21 forum state, thereby invoking the state law's benefits and
22 protections and making the defendant's involuntary presence before
23 the state's court foreseeable"; and (3) "the exercise of jurisdiction
24 must . . . be reasonable." Pritzker v. Yari, 42 F.3d 53, 60-61 (1st

Civil No. 06-1648 (JAF)

-12-

1 Cir. 1994) (internal quotations omitted). After careful
2 consideration, we conclude that the exercise of specific jurisdiction
3 over Defendants is inconsistent with the principles of Due Process.

4 **a. Defendant Netser**

5 **1. Relatedness**

6 In examining whether the relatedness prong of the test for
7 minimum contacts has been satisfied, the court must determine whether
8 the defendant's contacts with the forum were "instrumental either in
9 the formation of the contract or in its breach." Phillips Exeter
10 Academy v. Howard Phillips Fund, Inc., 196 F.3d 284, 289 (1st Cir.
11 1999). Of course, the mere existence of a contract is insufficient
12 because an agreement between two parties is "but an intermediate
13 step serving to tie up prior business negotiations with future
14 consequences which themselves are the real object of the business
15 transaction.'" Swiss Am. Bank, Ltd., 274 F.3d at 621 (quoting Burger
16 King Corp. v. Rudzewicz, 471 U.S. 462, 479 (1985)). Thus, we must
17 engage in "contract-plus analysis" by looking to "prior negotiations
18 and contemplated future consequences, along with the parties' actual
19 course of dealing." Id. (internal quotations omitted). It is not
20 necessary for the plaintiff to show that the defendant went to the
21 forum state. Id. at 621-22. "When physical presence is lacking, we
22 look for some other indication that the defendant reached into the
23 forum, such as mail or telephone contacts." Id. at 622.

Civil No. 06-1648 (JAF)

-13-

1 The record before the court in this case is sparse and does not
2 clearly state which party initiated contact regarding the contract.
3 See Docket Document Nos. 1, 6, 9. However, based on an affidavit
4 submitted by German Villalongo, Plaintiff Her-Vill's General Manager,
5 it appears that Plaintiff initiated contract negotiations by sending
6 a draft of the proposed contract to Defendant Netser in Florida.
7 Docket Document No. 9-2. Defendant Netser signed the contract in
8 Florida, and returned it to Plaintiff, who signed it in Puerto Rico.
9 Id. Aside from sending Plaintiff a signed copy of the contract, the
10 record does not show that Defendant Netser directed any other
11 activities at Puerto Rico. Thus, we find that Defendant Netser's in-
12 forum contacts were not instrumental to the formation of the
13 contract. PFIP, LLC v. Planet Fitness Enterprises, Inc., No. 04-250,
14 2004 U.S. Dist. LEXIS 22799, at *18-19 (D.N.H. Oct. 10, 2004) (finding
15 that the relatedness prong was not satisfied because plaintiff
16 initiated contact regarding the contract and the record did not show
17 that the defendants directed activity at the forum state).

18 There is also no evidence that Defendant Netser engaged in any
19 in-forum activities that were sufficiently linked to the breach of
20 the contract. Plaintiff alleges that Defendant Netser breached its
21 contract by (a) not providing agreed-upon work, (b) not maintaining
22 appropriate insurance, (c) not sending Plaintiff the financial
23 information it needed to assess Defendant's continued ability to
24 render services, (d) not obtaining necessary licenses, (e) not

Civil No. 06-1648 (JAF)

-14-

1 complying with insurance and disclosure laws, and (f) harming
2 Plaintiff's corporate image. Docket Document No. 1. According to
3 Plaintiff, Defendant Netser's in-forum activities were substantially
4 related to the alleged breach because: (1) Netser accepted work
5 assignments and payments from Plaintiff's Puerto Rico office,
6 (2) Netser sent monthly invoices to Plaintiff's Puerto Rico office,
7 and, (3) on occasion, Netser sent a representative to Puerto Rico for
8 work evaluations. Docket Document No. 9-2.

9 However, Plaintiff does not explain how these business
10 activities are related to Defendant Netser's alleged breach, and the
11 connection is not self-evident. The relatedness prong cannot be met
12 without proof showing that Defendant Netser's forum-based activities
13 were instrumental to Plaintiff's breach of contract claim. See
14 Phillips Exeter Academy, 196 F.3d at 290 ("[T]he relatedness
15 requirement is not met merely because a plaintiff's cause of action
16 arose out of the general relationship between the parties; rather,
17 the action must directly arise out of specific contacts between the
18 defendant and the forum state." (internal quotations omitted)).

19 Defendant Netser was not contracted to perform any work in
20 Puerto Rico. It was based in Florida and had no offices, employees
21 or property in Puerto Rico. Docket Document No. 6. Based on this
22 information, the alleged breach occurred either in Florida or on one
23 of the Caribbean islands where Defendant Netser was contracted to
24 provide services, but not in Puerto Rico. See Dagesse v. Law Firm of

Civil No. 06-1648 (JAF)

-15-

1 Esperiti, Peterson & Cahoone, No. 03-380, 2003 U.S. Dist. LEXIS
2 21808, at *15 (D.N.H. Dec. 4, 2003) (finding that defendant lacked
3 forum-based contacts related to the breach, i.e., defendant's alleged
4 failure to produce an estate plan for its clients, who were located
5 in New Hampshire, did not constitute a breach in New Hampshire;
6 rather, the breach took place in Florida where its offices were
7 located).

8 Accordingly, we find that the relatedness prong for Defendant
9 Netser is not met.

10 **2. Purposeful Availment**

11 Next, we consider whether Defendant Netser purposefully availed
12 itself of the privilege of conducting activities in Puerto Rico,
13 thereby invoking the benefits and protections of Puerto Rico law and
14 making its involuntary presence before the courts foreseeable.
15 Pritzker v. Yari, 42 F.3d 53, 61 (1st Cir. 1994). The function of
16 the purposeful availment prong is to assure that personal
17 jurisdiction is not premised solely upon defendant's "random,
18 isolated, or fortuitous" contacts with the forum state. Keeton v.
19 Hustler Magazine, Inc., 465 U.S. 770, 774 (1984); see also Nowak v.
20 Tak How Invs., 94 F.3d 708, 716 (1st Cir. 1996).

21 Plaintiff does not provide us with any evidence supporting its
22 assertion that the purposeful availment prong is satisfied. We note,
23 however, that Defendant Netser's acceptance of a choice of law
24 provision favoring Puerto Rico weighs in favor of a finding that

Civil No. 06-1648 (JAF)

-16-

1 Netser did purposefully avail itself of the privileges of conducting
2 activities in Puerto Rico. Burger King Corp., 471 U.S. at 482.
3 Nonetheless, as the Supreme Court has explained, "such a provision
4 standing alone [is] insufficient to confer jurisdiction." Id.
5 (finding the choice of law provision sufficient to establish
6 defendant's "deliberate affiliation with the forum State and the
7 reasonable foreseeability of possible litigation there" only because
8 it was "combined with a 20-year interdependent relationship [that
9 defendant] established with [plaintiff's] headquarters in the forum
10 state"). In addition, the mere fact that Defendant Netser entered
11 into a contract with Plaintiff, a Puerto Rico corporation, is
12 insufficient to satisfy the purposeful availment prong. Phillips
13 Exeter Academy, 196 F.3d at 292 ("Without evidence that the defendant
14 actually reached out to the plaintiff's state of residence to create
15 a relationship - say, by solicitation - the mere fact that the
16 defendant willingly entered into a tendered relationship does not
17 carry the day." (internal citations omitted)).

18 Having found that the first two prongs of the test for specific
19 jurisdiction are not met, we conclude that we may not exercise
20 specific jurisdiction over Defendant Netser.

21 **b. Defendant Herrera**

22 Plaintiff fails to provide evidence of any in-forum contacts
23 that are specific to Defendant Herrera. Docket Document No. 9.
24 Thus, we conclude that we cannot exercise specific jurisdiction over

Civil No. 06-1648 (JAF)

-17-

1 Defendant Herrera for the same reasons we cannot exercise specific
2 jurisdiction over Defendant Netser.

3 **B. Arbitration Order**

4 Defendant requests, without submitting to the jurisdiction of
5 this court, that we issue an order compelling the parties to
6 arbitrate the breach of contract claim, as required in the contract.
7 Docket Document No. 6. Plaintiff stipulates that the arbitration
8 clause in the contract is binding on the parties and, therefore,
9 agrees that the claim should be submitted to arbitration. Despite
10 the parties' apparent agreement regarding the need to arbitrate the
11 claim, we may not issue the requested order because we lack personal
12 jurisdiction over Defendants. See Johns v. Taramita, Inc., 132
13 F.Supp.2d 1021, 1031 (D. Fla. 2001) (dismissing the petition to
14 compel arbitration after finding that the court lacks personal
15 jurisdiction over respondent); see also Debreceeni v. Bru-Jell Leasing
16 Corp., 710 F. Supp. 15, 19 (D. Mass. 1989) (indicating that, without
17 personal jurisdiction, a court lacks power to enter a judgment that
18 binds a particular defendant).

19 **C. Venue**

20 Similarly, because we lack personal jurisdiction over
21 Defendants, we need not reach the issue of whether venue is proper in
22 the present case.

23 **IV.**

24 **Conclusion**

IT IS SO ORDERED.

San Juan, Puerto Rico, this 12th day of December, 2006.

S/José Antonio Fusté
JOSE ANTONIO FUSTE
Chief U. S. District Judge